



# City of Somerville, Massachusetts

## City Council Legislative Matters Committee

### Meeting Minutes

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**Tuesday, October 18, 2022**

**6:00 PM**

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This meeting was held via GoToWebinar and was called to order by Chair Davis at 6:02 pm and adjourned at 8:26 pm. Councilor Scott moved to adjourn and the motion was approved by unanimous roll call vote.

Others present: Aneesh Sahni - Mayor's Office, Brendan Salisbury - Legislative & Policy Analyst, Charlotte Leis - OSPCD, Tom Galligani - OSPCD, David Shapiro - Solicitor's Office, Stephanie Widzowski - Assistant Clerk of Committees.

#### **Roll Call**

<b>Present:</b>	Chairperson Lance L. Davis, Vice Chair Ben Ewen-Campen, Willie Burnley Jr., Jefferson Thomas (J.T.) Scott and Jesse Clingan
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#### Bereavement

1. Ordinance  
(ID # [22-1461](#))

By Councilor Pineda Neufeld, Councilor Burnley Jr., Councilor Davis, Councilor Ewen-Campen, Councilor Gomez Mouakad, Councilor Kelly, Councilor McLaughlin, Councilor Scott, Councilor Strezo and Councilor Wilson

That Chapter 2, Article VI, Section 2-319 of the Code of Ordinances, regarding bereavement leave, be amended as attached.

Chair Davis explained that this item had already been considered in committee and recommended for approval, but that one of the other councilors reached out to him and asked if the committee had considered a way to implement changes with definitions of immediate family and death; and whether there were better ways to refer to a loss of a pregnancy. The goal of these further revisions would be to make explicit that an employee could take bereavement leave if there was a loss of pregnancy in the immediate family. Dir. Sahni said that HR's previous understanding was that leave from loss of a pregnancy only applied to the employee. However, he said that Dir. Gill supported extending the scope to include immediate family.

**Chair Davis moved to amend the proposed amendment** to Section 2-319 of the ordinance, deleting subsection (a)(1)(A) and changing subsection (a) to read: "Employees shall be granted a leave of absence with pay, not exceeding five (5) days, in the event of a death, or the loss of a pregnancy by miscarriage, stillbirth or abortion, in the immediate family." The motion was approved by unanimous roll call vote.

**RESULT:** **RECOMMENDED TO BE APPROVED AS AMENDED**

**AYE:** Chairperson Davis, Vice Chair Ewen-Campen, City Councilor At Large Burnley Jr., Ward Two City Councilor Scott and Ward Four City Councilor Clingan

### Wires on Utility Poles

2. Ordinance  
(ID # [22-0835](#))

By Councilor Strezo, Councilor Pineda Neufeld and Councilor Gomez Mouakad

Amending Sec. 11-63 of the Code of Ordinances regarding the removal of poles, conduits and wires.

Legislative Analyst Salisbury said that they had struck the entirety of the section in question and replaced it with the attached text, so there are no red-line changes. Solicitor Shapiro spoke to the legality of the amendment, explaining that a “field preemption” issue arises with fines that has already been adjudicated by other communities. He said that the state’s stance on fines is meant to prevent providers from routing utilities preferentially through one community. However, Framingham filed a Home Rule Petition to do something similar to this item.

Councilor Clingan asked if the city would be allowed to address equipment, and whether this ordinance is enforceable. Solicitor Shapiro said that he was not sure, but asked DPW about equipment about five years ago and would check on that.

Councilor Ewen-Campen said that he would request to place this on file, based on the counsel received here. Chair Davis said he wanted to keep this item in committee to revise the amendment and make sure Administration staff, who were present but experiencing technical issues, could weigh in. At that point, he said the committee could entertain a second motion for the Administration to work with the City Council to develop a clear process.

**RESULT:** **KEPT IN COMMITTEE**

### Neighborhood Council Ordinance

3. Ordinance  
(ID # [22-1293](#))

By Councilor Ewen-Campen, Councilor Clingan, Councilor Wilson, Councilor Burnley Jr. and Councilor Kelly

Proposing Amendments to the Neighborhood Council Designation Ordinance (Chapter 7, Article IX) to encourage the formation of such neighborhood councils.

Councilor Ewen-Campen said that the changes were motivated by a second neighborhood group seeking recognition from the Council and that there is ambiguity to address in the original ordinance. The goals of the changes are to define the relationship between local government and neighborhood councils, and to strike a balance between encouraging the formation of

councils and holding them to a high standard of democracy and inclusivity. Councilor Ewen-Campen also stressed that the ordinance will make clear that neighborhood councils are not part of local government.

The revised versions attached to this item were submitted by the Administration, the Solicitor's Office, and city councilors, but not all changes were made on the same copy. Councilor Ewen-Campen reviewed key changes to the ordinance, including recognition qualifications, responsibilities of recognized councils, and situations that would merit revocation. He also said they would encourage councils to negotiate with developers to make Community Benefits Agreements (CBAs).

Chair Davis asked for a "net changes" version of all the revisions. Multiple councilors expressed concern about the potential for neighborhood councils to exclude students. Councilor Scott said it was her only concern for recommending approval. Councilor Ewen-Campen and Chair Davis clarified that the revisions would not automatically exclude students or other groups from participation, merely that councils could choose to include them or not. Councilor Burnley argued against denying students participation, as they would have to convince other community members to elect them into roles of power regardless.

Councilor Burnley also asked if stabilization funds could be used for legal services if councils seek to negotiate CBAs, commenting that community members often have less time and fewer resources to negotiate. Councilor Ewen-Campen said he was not sure, and that his revisions do not attempt to change the purpose or use of the stabilization fund.

**RESULT: KEPT IN COMMITTEE**

#### Adult Use Cannabis

4. Ordinance  
(ID # [22-0168](#))

By Councilor Strezo and Councilor Ewen-Campen

Amendment to Ordinance 2-221, regarding adult use marijuana licenses, as described within.

Chair Davis said the intent with this amendment is to define and require Labor Peace Agreements (LPAs) and Project Labor Agreements (PLAs). Legislative Analyst Salisbury spoke to organizational changes. Solicitor Shapiro said that there is a preemption issue under the National Labor Relations Act, and that literature raises concerns with the legislation, but there have not been court challenges to his knowledge. He said there were no state preemption issues to his knowledge, but that he had not checked if other municipalities had created ordinances like this. Chair Davis said he would like to hear from the Labor Counsel on this.

Councilor Ewen-Campen explained the context for the amendments is that workers in a Somerville cannabis shop had concerns about working

conditions as their employer was applying for a license. Councilor Ewen-Campen asked if there were any difference between PLAs and LPAs regarding preemption, and whether the licensing commission would consider measures to make sure workers' voices are involved regarding safety conditions. Solicitor Shapiro replied that they might be able to have the commission consider it without mandating it, but was unsure how that would resolve.

Multiple councilors expressed support for the intent of the amendment and requested additional information on legal implications before moving forward. Chair Davis asked if two weeks was a reasonable deadline for a follow-up. Solicitor Shapiro said that he did not want to commit to that, as there is not a Labor Counsel in-house yet, but would keep the committee updated.

**RESULT: KEPT IN COMMITTEE**

5. Mayor's Request (ID # [22-1714](#)) Requesting ordainment of an amendment to the Code of Ordinances, Section 2-221, to extend the exclusive period for Group A and Group B Priority Marijuana License applicants.

Chair Davis spoke of the original intent of the ordinance, which was to ensure opportunities for economic empowerment applicants for cannabis businesses. He noted that he was told there are currently 14 applicants with licenses approved or in the process: 7 in priority category A, of which 2 are majority locally owned and 5 are in a state-labeled "economic empowerment" category. When the first applicant is ready to open, it will be someone in the priority A category and at that point a priority B applicant will be able to open as well. Chair Davis also noted that the Council previously revised priority category A to only include economic empowerment candidates.

Councilor Burnley asked someone to explain a section of the evaluation criteria that says the licensing commission will factor in businesses' consistency with community values outlined in SomerVision. Dir. Galligani said they were working with SomerVision 2030 when that section was written, but now the vision is 2040. He added that decisions may impact the growth of commercial areas, so the city should keep SomerVision values in mind.

There was discussion of what the original term had been and how long to extend it; Dir. Leis said that it was originally a 2-year priority period that would end in November 2020, but it was extended 2 years. The city is now requesting one more year so that it expires in November 2023. Councilor Scott asked why not extend for two more years and whether it would be ideal to continue the one-to-one requirement. Dir. Leis answered that they think only one more year is necessary for a number of licensees to be able to

open, and Solicitor Shapiro added later that a longer exclusive period increases the chance of a challenge. Chair Davis said the one-to-one requirement did not seem likely to cause delays since there are seven applicants in each category. There was confusion as to the details of the one-to-one period, to which Dir. Leis explained that during the first five years, half of the licenses will go to Group A applicants, and half will go to Group B, both of which are priority; after that, one-to-one continues with priority and nonpriority applicants.

Chair Davis moved to recommend approval of the item.

**RESULT:      RECOMMENDED TO BE APPROVED**

**AYE:**            Chairperson Davis, Vice Chair Ewen-Campen, City  
                      Councilor At Large Burnley Jr., Ward Two City Councilor  
                      Scott and Ward Four City Councilor Clingan

### VOTES Act

6.      Mayor's Request      Requesting approval of Police Officer assignments at Polling Places on  
         (ID # [22-1320](#))      Election Day as required by the VOTES Act.

Chair Davis said that he felt the wording of the state legislation could be interpreted multiple ways, and that it is unclear why the state seems to be granting municipalities the authority to decide the number of officers present. He said that the Solicitor's Office received guidance from the Secretary of State's office, whose interpretation is that the Council must assign officers. He discussed options for moving forward with the item.

Councilor Burnley asked if the language in the state law applies only to early voting or for all elections. Solicitor Shapiro read Section 72 of the law, and Councilor Burnley said that he wanted the committee to have specific language for adoption.

Councilor Scott said that in previous decisions, "shall designate a number" has been inclusive of zero in the past. They also said that this does not need to be addressed immediately and that the Council can return to each individual election. Councilor Scott moved to place the item on file.

**RESULT:      RECOMMENDED TO BE PLACED ON FILE**